

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

LONA LEE COLHOFF, Petitioner, vs. UNITED STATES OF AMERICA, Respondent.	5:16-CV-05081-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING MOTION TO DISMISS
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Petitioner, Lona Lee Colhoff, filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody. The court referred the motion to Magistrate Judge Veronica Duffy. The United States moved to dismiss the action for failure to state a claim. Docket 14. Colhoff did not respond. On January 27, 2017, Magistrate Judge Duffy submitted a report and recommended that Colhoff's petition be dismissed and respondent's motion to dismiss be granted. The time for objections has passed. No objections to the report and recommendation have been filed under 28 U.S.C. § 2254, Rule 8(b)(3). The court has considered the case de novo and adopts the report and recommendation in full. Therefore, it is

ORDERED that the magistrate judge's report and recommendation (Docket 16) is adopted in full and respondent's motion to dismiss (Docket 14) is granted.

IT IS FURTHER ORDERED that based upon the reasons set forth herein and pursuant to Fed. R. App. P. 22(b), the court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Therefore, a certificate of appealability is denied.

Dated April 12, 2017.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE